Calendar No. 534

105TH CONGRESS *2d Session*	SENATE	REPORT 105–296

TO CORRECT A PROVISION RELATING TO TERMINATION OF BENEFITS FOR CONVICTED PERSONS

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

H.R. 3096

TO CORRECT A PROVISION RELATING TO TERMINATION OF BENEFITS FOR CONVICTED PERSONS

AUGUST 25, 1998.—Ordered to be printed

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105TH CONGRESS
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TO AMEND THE FEDERAL EMPLOYEES' COMPENSATION ACT TO PROVIDE A TECHNICAL CORRECTION

AUGUST 25, 1998.—Ordered to be printed

Filed under authority of the order of the Senate of July 31, 1998

Mr. THOMPSON, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany H.R. 3096]

The Committee on Governmental Affairs, to which was referred the bill (H.R. 3096) to amend the Federal Employees' Compensation Act to correct a provision relating to termination of benefits for convicted persons, having considered the same, reports favorably thereon and recommends that the bill do pass.

I. PURPOSE

H.R. 3096 amends the Federal Employees' Compensation Act (FECA), the comprehensive workers' compensation law for federal employees. FECA is designed to provide federal employees coverage for work-related injuries and deaths. The current statute and the parallel language of the federal criminal code differ, creating a discrepancy in the law which could be interpreted to allow a person to receive FECA benefits on the basis of fraudulent information. The legislation makes a technical correction to ensure that persons who commit fraud in the receipt of FECA benefits would lose their entitlement to such benefits.

II. BACKGROUND

The Federal Employees' Compensation Act (FECA), 5 U.S.C. section 8101 et. seq., is the comprehensive workers' compensation statute for federal employees and provides uniform coverage for work-related injuries and death.

This statute was the subject of legislative attention during the 103rd Congress when legislation was enacted aimed at curbing waste, fraud and abuse in this important program. At this time, FECA was amended to include a new section, 5 U.S.C. section 8148, forfeiture of benefits by convicted felons, which requires the termination of an individual's workers' compensation benefits based upon that individual's conviction under 18 U.S.C. section 1920. Further, Congress amended 18 U.S.C. section 1920 to make a violation of section 1920 a felony for acts occurring on or after September 30, 1994.

The amendment to FECA, 5 U.S.C. section 8148(a), reads in relevant part as follows:

> Any individual convicted of a violation of section 1920 of title 18, or any other Federal or State criminal statute related to fraud in the application for *a receipt* [emphasis added] of any benefit under this subchapter or subchapter III of this chapter, shall forfeit (as of the date of such conviction) any entitlement to any benefit such individual would otherwise be entitled to under this subchapter or subchapter III for any injury occurring on or before the date of such conviction. Such forfeiture shall be in addition to any action the Secretary may take under section 8106 or 8129.

However, the corresponding language in 18 U.S.C. section 1920 reads as follows:

> Whoever knowingly and willfully falsifies, conceals, or covers up a material fact, or makes a false, fictitious, or fraudulent statement or representation, or makes or uses a false statement or report knowing the same to contain any false, fictitious or fraudulent statement or entry in connection with the application for *or receipt* [emphasis added] of compensation or other benefit or payment under subchapter I or III of chapter 81 of title 5, shall be guilty of perjury, and on conviction thereof shall be punished by a fine under this title, or by imprisonment for not more than 5 years, or both; but if the amount of the benefits falsely obtained does not exceed $1,000, such person shall be punished by a fine under this title, or by imprisonment for not more than 1 year, or both.

As the language to which the emphasis was added indicates, there is a discrepancy between the legislative language in 5 U.S.C. section 8148(a) and the corresponding language in 18 U.S.C. section 1920 of the criminal code. It is possible to read the language in FECA as requiring the termination of benefits only where fraud was committed in the initial application for benefits, rather in conjunction with subsequent receipt of compensation benefits. In effect, this interpretation could allow an individual to receive compensation benefits even though the individual was convicted of committing FECA fraud.

H.R. 3096 makes explicit that individuals convicted of fraud at any point in the application for or receipt of workers' compensation benefits are prohibited from receiving such benefits. The legislation conforms 5 U.S.C. section 8148 with the corresponding language of 18 U.S.C. section 1920.

III. Legislative History

H.R. 3096 was introduced by Representative James C. Greenwood on January 27, 1998. The bill was referred to the House Committee on Education and the Workforce and to the Subcommittee on Workforce Protections. The Subcommittee on Workforce Protections approved the bill by voice vote on February 4, 1998, and ordered it favorably reported to the Committee on Education and the Workforce. On March 11, 1998, the Committee on Education and the Workforce approved H.R. 3096 by voice vote, and ordered the bill favorably reported to the U.S. House of Representatives. On March 18, 1998, the bill was placed on the House Corrections Calendar. The bill was considered by the House on March 24, 1998 and passed the House by a roll call vote of 408–0 (a three-fifths majority having been required).

On March 25, 1998, H.R. 3096 was received by the Senate and referred to the Committee on Governmental Affairs. On April 20, 1998, the bill was referred to the Subcommittee on International Security, Proliferation, and Federal Services. On May 8, 1998, a majority (9) of the Subcommittee Members approved reporting favorably H.R. 3096 to the full Committee. No hearings were held, nor testimony received. The Committee proceeded to consider H.R. 3096 on June 17, 1998. No amendments were offered during consideration of this legislation by the full Committee. H.R. 3096 was considered en bloc with other legislation and was ordered to be reported favorably to the full Senate by voice vote.

IV. Section-by-Section Analysis

SECTION 1. CORRECTION

H.R. 3096 corrects a technical problem in the Federal Employees' Compensation Act (Section 8148(a) of Title 5) by conforming the language to the criminal code (Section 1920 of Title 18) by replacing the word "a" with the word "or".

V. Regulatory Impact Statement

Pursuant to the requirement of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory and paperwork impact of H.R. 3096. The legislation makes a one word change in the Federal Employees' Compensation Act, thereby preventing those convicted of FECA fraud from receiving FECA benefits. H.R. 3096 contains no intergovernmental or private-sector mandates and would not affect the budgets of state, local or tribal governments.

VI. Congressional Budget Office Cost Estimate

U.S. Congress,
Congressional Budget Office,
Washington, DC, June 25, 1998.

Hon. Fred Thompson,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3096, an act to correct a provision relating to termination of benefits for convicted persons.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Christina Hawley Sadoti.

Sincerely,

June E. O'Neill, *Director.*

Enclosure.

H.R. 3096—An Act to Correct a Provision Relating to Termination of Benefits for Convicted Persons

Summary: H.R. 3096 would amend Title 5 of the U.S. Code to clarify the wording of one provision. The section to be amended causes individuals convicted of fraud in the application or receipt of workers' compensation benefits under the Federal Employees Compensation Act (FECA) to forfeit their entitlement. Although the current wording in Title 5 is not precisely the same as the section it references in Title 18, 103 individuals have had their benefits terminated upon conviction of fraud under FECA since 1993, when the law first became effective. Absent this change, the ability of the Department of Labor to terminate some fraudulently collected benefits could be affected. However, there have been no cases where the inconsistent wording has been used as a defense against termination of benefits. It is unlikely, therefore, that enactment of this legislation would have any significant effect on the federal budget.

H.R. 3096 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would not affect the budgets of state, local, or tribal governments.

On March 12, 1998, CBO provided an identical estimate of the cost of this act to the House Committee on Education and the Workforce.

This estimate was prepared by Christina Hawley Sadoti (federal cost), Marc Nicole (impact on state, local and tribal governments), and Kathryn Rarick (impact on the private sector). This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

VII. Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 8148 OF TITLE 5, UNITED STATES CODE,

§ 8148. Forfeiture of benefits by convicted felons

(a) Any individual convicted of a violation of section 1920 of title 18, or any other federal or State criminal statute relating to fraud in the application for [a] *or* receipt of any benefit under this subchapter or subchapter III of this chapter, shall forfeit (as of the date of such conviction) any entitlement to any benefit such individual would otherwise be entitled to under this subchapter or subchapter III for any injury occurring on or before the date of such conviction. Such forfeiture shall be in addition to any action the Secretary may take under section 8106 or 8129.

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